

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

ANDRE DESHAWN COOLEY

PLAINTIFF

VS.

CIVIL ACTION NO. 2:17-cv-71-KS-MTP

ALEX HODGE, ET AL

DEFENDANTS

ORDER ACCEPTING MAGISTRATE JUDGE'S RECOMMENDATION
AND DENYING IFP STATUS TO PLAINTIFF

THIS CAUSE IS BEFORE THE COURT on Motion for Leave to Proceed In Forma Pauperis [2] filed by Plaintiff, Report and Recommendation of U.S. Magistrate Judge Michael T. Parker [11] and Objection to the Report and Recommendation [12]. The Court considering said document does hereby find as follows:

PROCEDURAL HISTORY

On May 15, 2017, Plaintiff filed his verified Complaint [1] and on the same date filed his Motion for Leave to Proceed In Forma Pauperis [2]. On August 17, 2017, U.S. Magistrate Judge Michael T. Parker filed a Report and Recommendation on the Motion [11]. On August 24, 2017, Plaintiff Objected [12] to the Report and Recommendation. The Court now considers the Report and Recommendation and the Objection.¹

In his initial disclosure [2] Plaintiff showed his income as \$3000.00 per month unemployment benefits, \$600.00 public assistance, and \$400.00 per month from Lowe's Home Improvement. He also showed his spouse's income as \$300.00 per month from Lowe's. He also

¹ A Motion for Reconsideration {13} was also filed by Andre Deshawn Cooley. The Court will not consider new information provided in rebuttal that was not initially presented in the Motion.

showed \$147.00 in savings and a motor vehicle alleged to be worth \$600.00. He listed expenses of \$241.00. In his Objection [12] he claims that his circumstances have changed, and that his monthly income is only \$648.00 in unemployment benefits and expenses of \$655.00 per month. He does not mention his spouse's income. The operative time for the determination of IFP status is at the time of filing of the Complaint. Mr. Cooley clearly had sufficient income to pay the filing fees without undue hardship at the time the Complaint was filed. There is no information given as to when his benefits were reduced, but irrespective of that the Court finds that the Motion for Leave to Proceed In Forma Pauperis [2] is DENIED. Plaintiff is given sixty (60) days to pay all costs associated with the filing of this lawsuit, and should the Plaintiff fail to timely pay all of the costs associated with the filing of this lawsuit, this matter will be dismissed without prejudice without further notice.

SO ORDERED this the 31st day of August, 2017.

s/Keith Starrett
UNITED STATES DISTRICT JUDGE